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Part IX

Environmental Protection Agency

Hazardous Waste Management; Land Disposal Restrictions; Notice of Intent to Approve Case-by-Case Applications

ENVIRONMENTAL PROTECTION AGENCY

[SWH-FRL-4115-7]

Hazardous Waste Management System; Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to approve case-by-case applications.

SUMMARY: EPA is proposing to approve the applications submitted by two Olin Corporation facilities in Augusta, Georgia and Charleston, Tennessee, requesting an extension of the May 8, 1992 effective date of the land disposal restrictions applicable to wastes with the hazardous waste codes D009 and K106. EPA also proposes to grant approval of an extension of the effective date of the land disposal restrictions applicable to D009 and K106 wastes generated at the following five facilities: BFGoodrich Company, Calvert City, Kentucky; PPG Industries, Lake Charles, Louisiana; PPG Industries, New Martinsville, West Virginia; Pioneer Chlor Alkali Company, Inc., St. Gabriel, Louisiana and Vulcan Chemicals, Port Edwards, Wisconsin. However, for these facilities approval is contingent upon receipt of, notice and comment upon, and approval of documentation of a binding contractual commitment to construct or otherwise provide treatment capacity for each facility. This action responds to the applications submitted by these seven facilities, in conjunction with the Chlorine Institute, under 40 CFR 268.5, which allows any person to request the Administrator to approve, on a case-by-case basis, an extension of the applicable effective date of the land disposal restrictions treatment standards. To obtain an extension, the applicant must demonstrate that there is insufficient capacity to manage his waste and that he has entered into a binding contractual commitment to construct or otherwise provide such capacity but due to circumstances beyond his control, such capacity cannot reasonably be made available by the effective date. If this proposed action is finalized, each of the seven above mentioned chlorine manufacturing facilities can continue to treat, store or dispose of its D009, and K106 wastes, using current practices, for an additional one year without being subject to the land disposal restrictions applicable to such wastes. If warranted, EPA may grant a renewal of this extension, for up to one year, which, at a maximum, would extend the effective date of the LDR for these wastestreams to May, 8, 1994.

DATES: Comments on this notice must be received on or before April 20, 1992.

ADDRESSES: The public must send an original and two copies of their comments to the EPA RCRA Docket (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the Docket Number F-92-CCPP-FFFFF on all copies of the comments. The EPA RCRA Docket is located in Room 2427, 401 M Street, SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424-9346 toll-free or (202) 382-3000, locally. For information on specific aspects of this notice contact William J. Kline, Office of Solid Waste, Capacity Programs Branch (OS-321W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8440.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Mandate

Congress enacted the Hazardous and Solid Waste Amendments (HSWA) of 1984 which amended the Resource Conservation and Recovery Act (RCRA). Among other things, HSWA required EPA to develop regulations that would impose, on a phased schedule, restrictions on the land disposal of hazardous wastes. In particular, sections 3004(d) through (g) prohibit the land disposal of certain hazardous wastes by specified dates in order to protect human health and the environment. More specifically, section 3004(g) scheduled the prohibition of the land disposal of those hazardous wastes included in the Third Third group (which includes hazardous wastes D009, and K106), effective 66 months after the enactment of HSWA (May 8, 1990). In addition, section 3004(m) requires EPA to set "levels of methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." Wastes that meet the treatment standards established by EPA are not prohibited and may be land disposed.

In developing such a broad program, Congress recognized that adequate alternative treatment, recovery, or disposal capacity which is protective of human health and the environment may not be available by the applicable statutory effective dates. Therefore, section 3004(h)(2) authorized EPA to grant a national capacity variance (based on the earliest date that such capacity will be available but not to exceed two years) from the effective date which would otherwise apply to specific hazardous wastes. In addition, under section 3004(h)(3), EPA can grant an additional capacity extension of the statutory deadline on a case-by-case basis for up to one year beyond the applicable deadline. Such an extension is renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions (LDR) program, including the procedures for submitting case-by-case extension applications.

Also, on June 1, 1990, EPA published a final rule (55 FR 22520) establishing land disposal restrictions for Third Thirds wastes. Among other things, EPA published treatment standards for wastes D009 and K106. Because of a determination that available treatment, recovery, or disposal capacity did not exist at that time for these wastes, EPA granted a two-year national capacity variance for K106 and D009 wastes. As such, these wastes are prohibited from being land disposed beginning May 8, 1992.

B. 40 CFR 268.5 Demonstrations for Case-by-Case Applications

Case-by-case extension applications must satisfy the requirements outlined in 40 CFR 268.5. Each of the chlorine manufacturing facilities requesting an extension of the effective date of the LDRs must address each of the following seven demonstrations of 40 CFR 268.5(a):

- *40 CFR 268.5(a)(1).* The applicant has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage its waste in accordance with the effective date of the applicable restriction (i.e., May 8, 1992).
- *40 CFR 268.5(a)(2).* The applicant has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery, or disposal capacity that meets the treatment standards specified in 40 CFR part 268, subpart D or, where treatment standards have not been specified, such

treatment, recovery, or disposal capacity is protective of human health and the environment.

• *40 CFR 268.5(a)(3).* Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date.

• *40 CFR 268.5(a)(4).* The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application.

• *40 CFR 268.5(a)(5).* The applicant provides a detailed schedule for obtaining operating and construction permits or an outline of how and when alternative capacity wil be available.

• *40 CFR 268.5(a)(6).* The applicant has arranged for adequate capacity to manage his waste during an extension, and has documented the location of all sites at which the waste will be managed.

• *40 CFR 268.5(a)(7).* Any waste managed in a surface impoundment or landfill during the extension period will meet the requirement of 40 CFR 268.5(h)(2).

After an applicant has been granted a case-by-case extension, he must immediately notify EPA of any change in the demonstrations made in the petition (40 CFR 268.5(f)). He must also submit progress reports at specified intervals that describe the progress being made towards obtaining adequate alternative capacity, identify any delay or possible delay in developing the capacity, and describe the mitigating actions being taken in response to the event (40 CFR 268.5(g)).

II. Evaluation of Subject Applications

The following seven chlorine manufacturing facilities, in conjunction with the Chlorine Institute, requested that EPA grant a one-year extension of the May 8, 1992, effective date of the LDRs applicable to hazardous wastes D009 and K106 consisting of residual wastewaters and other solid wastes derived from the electrolytic mercury cell processes that are used at these facilities for the production of chlorine:

1. BFGoodrich Company in Calvert City, KY
2. Olin Corporation in Augusta, GA
3. Olin Corporation in Charleston, TN
4. PPG Industries in Lake Charles, LA
5. PPG Industries in New Martinsville, WV
6. Pioneer Chlor-Alkali Company, Inc. in St. Gabriel, LA
7. Vulcan Chemicals in Port Edwards, WI

The Best Demonstrated Available Technology (BDAT) for D009 and K106 is thermal treatment or retorting. The Chlorine Institute [1] and its members submitted comments to EPA during the rulemaking process, expressing their belief that retorting was not available for treatment of the subject wastes due to differences between the mercury mine ores used in establishing BDAT and electrolytic mercury cell wastes. They argued that data used in developing BDAT based on wastes generated by a mercury producer was not directly transferable to K106 and D009 mercury cell waste without further extensive development. Failing to convince EPA to change the proposed BDAT for K106 and D009, the Chlorine Institute and some of its members contracted with Hazen Research of Golden, Colorado in June 1990 to develop a thermal mercury recovery process for K106 and selected D009 wastes that would allow the Institute's members to comply with the LDR regulations. The project consists of three phases. Phase I, which has been completed, consisted of characterizing representative waste, evaluating the effects of variables, selecting potential technologies for evaluation, and preliminary design and economics. Phase II, which has also been completed, was the construction and operation of a pilot plant. The primary goal of this Phase was to demonstrate the feasibility of the process to recover mercury from these wastes and meet BDAT for the K106 and D009 wastes. Construction of the pilot plant was completed in June 1991. Phase II of the Hazen Project successfully demonstrated that the thermal mercury recovery process could treat D009 and K106 wastes to meet BDAT.

Phase III is the development of engineering design and construction of full-scale treatment units on an individual or joint basis by each of the chlorine manufacturers. Initial estimates from the chlorine manufacturers indicate that the earliest operation of these treatment units will be in the first quarter of 1993.

A. Applicants' Demonstrations

Each of the seven applicants submitted to EPA a separate petition requesting an extension of the effective date of the LDRs for its D009 and K106 wastes. However, two of the required demonstrations, 40 CFR 268.5(a)(1) and (a)(3), being identical for all of the seven facilities [2], were conducted and submitted in conjunction with the Chlorine Institute. The demonstrations in 40 CFR 268.5(a)(2), (a)(4), and (a)(5) also initially were the same for each of the seven facilities and submitted as such under the auspices of the Chlorine Institute. However, as discussed in more detail below, subsequent to the successful completion of Phase II of the Hazen Research project, each of the applicants must provide EPA the additional documentation necessary to show when and how the demonstrated technology will be constructed and put into operation to treat their subject wastes.

A discussion of the generic demonstrations, as submitted in conjunction with the Chlorine Institute, along with a description of each facility and a review of each the applicant's facility-specific demonstrations follows.

1. Applicants' Generic Demonstrations

40 CFR 268.5(a)(1). The Chlorine Institute identified 47 facilities with thermal treatment services that may be able to accept the subject wastes. Of these 47 facilities, only four were identified as capable of metal recovery and therefore potentially capable of treating these wastes using BDAT. Of the four facilities, two could not accept the wastes. One facility, Bethlehem Apparatus, indicated it can accept 150 tons per year of D009 wastes. The other facility, Mercury Refining Company (MERECO), has stated that it can currently accept a total of 200 drums of D009 wastes per year from the petitioning facilities; however, it also indicated that it is expanding its treatment capacity such that it eventually will at least double its current treatment capacity in late 1992 when the new facility expansion is complete. Written responses from the four treatment facilities were provided and are available in the public docket established for today's notice.

The quantity of D009 waste being generated (more than 1000 tons/year) by the seven facilities applying for this extension far exceeds the available commercial capacity (less than 200 tons/year) to treat this waste. The applicants, as a group, stated they would utilize this limited available commercial treatment capacity. It is EPA's expectation that the applicants requesting this case-by-case extension will use this treatment capacity, to the extent it is available,

[1] The Chlorine Institute Inc., is an association of chlorine manufacturers and related companies. The Institute's members are responsible for 98% of the U.S. production of chlorine.

[2] The chlorine manufacturers, as members of the Chlorine Institute, have combined their resources over the past several years to address compliance with the regulations.

until the applicants have otherwise provided treatment capacity, i.e., the planned treatment units are put into operation. EPA intends to monitor this situation and, if appropriate, require that each facility, for which an extension of the LDRs is approved, explain how and when such available capacity will be used. Commercial treatment capacity for the K106 wastes was found to be non-existent.

EPA agrees that there is very limited available treatment capacity to treat the D009 wastes generated at the seven petitioning facilities to BDAT standards. It is clear that the total available treatment capacity is greatly exceeded by demand, therefore making it virtually certain that each of the applicants will be unable to find treatment capacity for all of its wastes. Given the restricted treatment capacity for D009 wastes and the lack of any capacity for K106 wastes, EPA believes that a lack of sufficient available treatment capacity, despite a good faith effort to locate such capacity, has been adequately demonstrated by the applicants.

40 CFR 268.5(a)(3). On behalf of the chlorine manufacturers, the Chlorine Institute, as part of the Third Third rulemaking process, provided EPA with data on thermal desorption treatment of K106 chlorine production wastes in December 1989 to support their recommendation for BDAT. They also provided comments on the proposed BDAT for K106 and D009. Failing to convince EPA to modify the proposed BDAT for D009 and K106, the Institute promptly contracted with Hazen Research to develop their own treatment facility capable of meeting BDAT. Hazen Research stated, in their December 6, 1991, report to the Chlorine Institute, that they successfully demonstrated that the thermal process was capable of meeting BDAT.

EPA believes the seven applicants, acting with the Chlorine Institute, cannot reasonably provide treatment capacity by the effective date, due to technical difficulties in treating these wastes to BDAT standards. The applicants have aggressively pursued the development of technology capable of treating their wastes to BDAT standards. As such, EPA believes this demonstration of non-availability of capacity, due to circumstances beyond each applicant's control, is adequate.

2. Facility-Specific Demonstrations

In addition to having addressed the 40 CFR 268.5 (a)(1) and (a)(3) demonstrations in a generic manner, each applicant likewise addressed the remaining five demonstrations in 40 CFR 268.5(a)(2), (a)(4), (a)(5), (a)(6) and (a)(7), as follows:

(a) *BFGoodrich.* BFGoodrich is located in Calvert City, Kentucky. The facility generated approximately 111 tons of K106 waste, 137 tons of low mercury D009, and 32 tons of high mercury D009 waste in 1990. K106 sludge and other wastes identified as D009 are currently disposed of at Chemical Waste Management's landfills in Emelle, Alabama and Ft. Wayne, Indiana.

40 CFR 268.5(a)(2). BFGoodrich has awarded a contract to develop the engineering design for the retort unit, employing the technology developed as part of the Hazen Research project discussed above; this unit is scheduled to be constructed at its Calvert City facility. BFGoodrich advised EPA that by April 15, 1992, it will purchase at least 20% of the equipment necessary to construct this unit and will provide EPA with copies of the purchase order. However, BFGoodrich does not expect to award the contract to construct the retort unit until approximately July 15, 1992.

EPA believes that BFGoodrich has made a substantial commitment to construct a treatment unit that will treat the D009 and K106 wastes generated at its Calvert City, Kentucky facility to BDAT standards. Documentation regarding the design of this unit has been provided to EPA. The receipt of purchase orders for equipment will provide further confirmation of BFGoodrich's commitment to construct the retort unit. However, EPA will not view the 40 CFR 268.5(a)(2) demonstration as having been fully met and will not grant final approval of a case-by-case extension for the D009 and K106 wastes generated at the BFGoodrich Calvert City, Kentucky facility until appropriate documentation is submitted to EPA showing that a binding contractual commitment has been entered into the construct this treatment unit. BFGoodrich has stated that documentation that demonstrates a binding contractual commitment to construct the treatment unit that meets the BDAT standards specified for the D009 and K106 wastes generated at the Calvert City, Kentucky facility will be provided to EPA as soon as it becomes available. When such a contract has been received and approved by EPA, it will be docketed and made available for public notice and comment. Unless this contract is submitted by April 3, 1992, EPA, upon docketing of the contract, will publish a supplemental notice and provide 15 days for comment on the contract, prior to taking final action on this application. (The deadline for comments stated above will remain effective for all aspects of this proposal other then the contract).

40 CFR 268.5(a)(4). BFGoodrich has stated that the thermal treatment unit to be constructed will have a capacity of approximately 300 tons/year to treat the K106 and D009 waste generated at its Calvert City, Kentucky facility. The engineering and design plans have been submitted by BFGoodrich to EPA. EPA believes that BFGoodrich has adequately demonstrated that the treatment unit to be constructed will provide the necessary treatment capacity to manage the entire quantity of these wastes covered by this case-by-case application.

40 CFR 268.5(a)(5). BFGoodrich has submitted a schedule that provides details regarding the construction and permitting of the retort unit to be installed at its Calvert City, Kentucky facility. As shown in the schedule, BFGoodrich plans to commence construction of the retort unit by August 1, 1992 and expects construction to be completed by March 1, 1993. BFGoodrich then estimates that compliance testing of the unit will begin by April 1, 1993. The final permit approval to operate this unit is anticipated to be granted by October 1, 1993. EPA believes that BFGoodrich has submitted the documentation necessary to meet this requirement.

40 CFR 268.5(a)(6). The D009 and K106 wastes generated at BFGoodrich's Calvert City, Kentucky facility will continue to be disposed of in Chemical Waste Management's (CWM) hazardous waste landfills in Emelle, Alabama and Fort Wayne, Indiana. However, until such time that EPA gives its final approval of an extension for any facility, that facility is bound by the effective date of the land disposal restrictions applicable to its D009 and K106 wastes. CWM has provided written assurance to BFGoodrich that CWM will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation is sufficient to make the necessary demonstration.

40 CFR 268.5(a)(7). BFGoodrich will continue to use the CWM landfills in Emelle, Alabama and Fort Wayne, Indiana. CWM has provided a letter certifying that its landfills meet the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation is sufficient to make the necessary demonstration.

Olin Corporation

Olin Corporation (Olin) has submitted case-by-case applications requesting an extension of the LDR for the D009 and K106 wastes generated at two if its facilities, one located in Augusta, Georgia and the other in Charleston, Tennessee.

(b) *Olin (Augusta, Georgia).* The Augusta facility generated approximately 190 lbs per day of K106 waste and 1,200 lbs per day of D009 waste in 1990. The facility also generates D009 soil and debris, which Olin considers not amenable to thermal treatment. Olin stated that it will prepare a separate request for a treatability variance for this waste. K106 sludge and other wastes identified as D009 are currently combined together and transported for disposal at the GSX hazardous waste landill in Pinewood, South Carolina.

40 CFR 268.5(a)(2). Olin plans to construct one thermal retort unit at its Charleston, Tennessee facility at which the D009 and K106 wastes from both the Augusta, Georgia and Charleston, Tennessee facilities would be treated.

To support its demonstration of a binding contractual commitment to construct the retort unit, Olin has provided EPA a copy of the contract between Olin Corporation and Blount, Inc. to perform work as required by Olin at its Charleston, Tennessee facility. Under Olin's existing contract with Blount, Olin has provided a signed release order between Olin and Blount, Inc. to construct the retort unit.

Additional documentation provided by Olin to demonstrate its commitment to the construction of the retort unit includes: (1) a signed approval by Olin's CEO of funds to design, purchase, and construct the retort unit at the Charleston, Tennessee facility to handle the D009 and K106 wastes from both the Augusta, Georgia and Charleston, Tennessee facilities, (2) a copy of the purchase orders for the furnace and off-gas handling system, and (3) a copy of the design specifications, including process flow diagrams, piping and instrument diagrams, and equipment.

EPA is satisfied that Olin has made a binding contractual commitment to construct a treatment unit that will treat the D009 and K106 wastes generated at its Augusta, Georgia and Charleston, Tennessee facilities to BDAT standards. EPA believes Olin has provided the necessary documentation to meet this requirement.

40 CFR 268.5(a)(4). Olin has stated that the thermal treatment unit to be constructed will have sufficient capacity to adequately handle all the K106 and D009 wastes generated by both the Augusta, Georgia and Charleston, Tennessee facilities. The retort unit to be constructed at Olin's Charleston, Tennessee facility is designed for 300 lbs./hour with an estimated actual annual throughput (including wastes from both Augusta and Charleston) of 1.13 million lbs. As such, the planned retort unit is expected to have excess capacity. Therefore, EPA believes that Olin has adequately demonstrated that the treatment unit to be constructed will provide the necessary treatment capacity to manage the entire quantity of D009 and K106 wastes covered by this case-by-case application.

40 CFR 268.5(a)(5). Olin has provided EPA with a detailed schedule for the construction and permitting of the retort unit to be constructed at its Charleston, Tennessee facility. As indicated in the schedule, Olin expects to receive the construction permit by June 1992, and begin construction in July 1992. Construction is anticipated to be completed by January 1993 followed by testing of the unit in January-March 1993. A permit to begin operation of the retort unit is expected to be granted in April 1993. EPA believes that Olin has provided the necessary construction and permitting milestones for bringing its retort unit on-line and therefore meets the requirements of this demonstration.

40 CFR 268.5(a)(6). Olin's (Augusta, GA) wastes will continue to be disposed of in the GSX Services of South Carolina, Inc. (GSX) hazardous waste landfill located in Pinewood, South Carolina. GSX has provided written assurance to Olin that GSX will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation is sufficient to provide this demonstration.

40 CFR 268.5(a)(7). Olin (Augusta, GA) will continue to use the GSX landfill, located in Pinewood, South Carolina. GSX has provided a letter, certifying that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation is sufficient for the required demonstration.

(c) *Olin (Charleston, Tennessee).* The Olin Charleston, Tennessee facility generated approximately 1,000 lbs per day of K106 waste and 3,150 lbs per day of D009 waste in 1990. The facility also generates D009 soil and debris, which Olin considers not amenable to thermal treatment. Olin stated that it will prepare a separate request for a treatability variance for this waste. This facility currently disposes of its K106 sludge and other wastes identified as D009 in an on-site landfill.

40 CFR 268.5(a)(2). As described above, Olin plans to construct one thermal retort unit at the Charleston, Tennessee facility at which the wastes from both the Charleston, Tennessee and the Augusta, Georgia facilities would be treated. (See the discussion under Olin, Augusta, Georgia, 40 CFR 268.5(a)(2) to support its demonstration of a binding contractual commitment to construct the retort unit.)

40 CFR 268.5(a)(4). Olin has stated that the thermal treatment unit to be constructed will have sufficient capacity to adequately handle all the K106 and D009 wastes generated by both the Augusta, Georgia and Charleston, Tennessee facilities. (See the discussion under Olin, Augusta, Georgia, 40 CFR 268.5(a)(4) to support its demonstration that the retort unit will have sufficient capacity to handle all its D009 and K106 waste.)

40 CFR 268.5(a)(5). Olin has provided EPA with a detailed schedule for the construction and permitting of the retort unit to be constructed at its Charleston, Tennessee facility. (See the discussion under Olin, Augusta, Georgia, 40 CFR 268.5(a)(5) to support its demonstration that a detailed schedule for the construction and permitting of the retort unit has been provided.)

40 CFR 268.5(a)(6). Olin's (Charleston, TN) wastes will continue to be disposed of on-site. Olin has provided assurance that its on-site landfill will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation satisfies this requirement.

40 CFR 268.5(a)(7). Olin (Charleston, TN) will continue to use its on-site landfill. Olin has certified that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this certification is included in the public docket established for this notice. EPA believes that this documentation satisfies this requirement.

PPG Industries, Inc.

PPG Industries, Inc. (PPG) has submitted case-by-case applications, requesting an extension of the LDR for the D009 and K106 wastes generated at two of its facilities, one of which is located in Lake Charles, Louisiana and the other in New Martinsville, West Virginia.

(d) *PPG (Lake Charles, Louisiana).* The Lake Charles facility generated approximately 180 tons of K106 wastewater treatment sludge and 150 tons of D009 mercury contaminated

waste in 1990. The facility also generated approximately 180 tons of D009/D002 mercury-contaminated caustic wastes and small quantities of D009/D001 low level mercury-contaminated solvent waste in 1990. In addition, PPG is requesting a separate treatment variance for D009 soil and debris, which PPG considers not amenable to thermal treatment. Wastes generated at the Louisiana facility currently are disposed of at the Chemical Waste Management landfill in Emelle, Alabama.

40 CFR 268.5(a)(2). PPG plans to construct one thermal retort unit at the Lake Charles facility at which the D009 and K106 wastes from both the Lake Charles and New Martinsville, West Virginia facilities would be treated. This treatment unit will employ the technology developed as part of the Hazen Research project discussed above. PPG has submitted a copy of a purchase order to be used for preliminary engineering, preparation of estimates, initial procurement, and to start detail design engineering and a copy of a purchase order to purchase the retort furnace.

PPG also has stated that in March 1992, it will submit documentation of approved authorization for funds to construct, start-up, and operate this unit. Actual award of two lump sum contracts to construct a retort unit at PPG's Lake Charles, Louisiana facility are not expected to be issued until the June-August timeframe, however. PPG intends to award the necessary contracts in two phases: one for the foundation work on approximately July 1, 1992, the second by September 1, 1992 for the mechanical, structural, and electrical work. EPA is convinced that PPG has made a substantial commitment to construct a treatment unit that will treat its D009 and K106 wastes to BDAT standards. However, EPA will not view the 40 CFR 268.5(a)(2) demonstration as having been fully met and will not grant final approval of a case-by-case application for the wastes generated at the PPG Lake Charles, Louisiana and New Martinsville, West Virginia facilities until final approval of documentation showing that the binding contractual commitments has been entered into to construct this treatment unit. When such a contract has been received and approved by EPA, it will be docketed and made available for public notice and comment. Unless this contract is submitted by April 3, 1992, EPA, upon docketing of the contract, will publish a supplemental notice and provide 15 days for comment on the contract, prior to taking final action on this application. (The deadline for comments stated above will remain effective for all aspects of this proposal other than the contract).

40 CFR 268.5(a)(4). PPG has stated that the retort unit to be constructed will have a capacity of up to 400 lbs/hour to treat the almost 400 tons/year of D009 and K106 wastes generated by both the Lake Charles, Louisiana and New Martinsville, West Virginia facilities. Likewise, PPG states that its future unit will possess sufficient treatment capacity to treat the more than 550 tons/year of D009 and K106 wastes that Pioneer intends to treat at PPG's retort unit. EPA believes that PPG's planned retort unit to be constructed at its Lake Charles, Louisiana facility will have sufficient capacity to treat all the D009 and K106 wastes covered by its case-by-case applications, as generated by both the Lake Charles, Louisiana and New Martinsville, West Virginia facilities as well as the D009 and K106 wastes generated by Pioneer's St. Gabriel, Louisiana facility.

40 CFR 268.5(a)(5). PPG has provided EPA with a detailed schedule for the construction and permitting of the retort unit to be constructed at its Lake Charles, Louisiana facility. As indicated in the schedule, PPG estimates that construction of the unit will be completed by March 1993. Testing of the unit is anticipated for April 1993 with actual on-line operation beginning in May 1993. EPA believes that PPG has provided the necessary construction and permitting milestones for bringing its retort unit on-line and therefore meets the requirements of this demonstration.

40 CFR 268.5(a)(6). PPG's (Lake Charles, LA) wastes will continue to dispose of its wastes at the CWM hazardous waste landfill in Emelle, Alabama. However, until such time that EPA gives its final approval of an extension, PPG is bound by the effective date of the land disposal restrictions applicable to its D009 and K106 wastes. CWM has provided written assurance to PPG that it will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation satisfies the requirement of making this demonstration.

40 CFR 268.5(a)(7). PPG's Lake Charles facility will use the CWM landfill, located in Emelle, Alabama. CWM has provided a letter, certifying that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation satisfies the requirement of making this demonstration.

(e) *PPG (New Martinsville, West Virginia).* PPG's New Martinsville, West Virginia facility generated approximately 18 tons of K106 wastewater treatment sludge and 34 tons of D009 mercury contaminated waste in 1990. In addition, PPG generates a small amount of D009 soil and debris, which PPG considers not amenable to BDAT. The New Martinsville facility currently disposes of all K106 sludge and other wastes identified as D009 in a CWM landfill in Model City, New York.

40 CFR 268.5(a)(2). PPG plans to construct one thermal retort unit at the Lake Charles facility at which the D009 and K106 wastes from both the Lake Charles and PPG's New Martinsville, West Virginia facilities would be treated. (See the discussion under PPG, Lake Charles, Louisiana, 40 CFR 268.5(a)(2) to support its demonstration of a binding contractual commitment to construct the retort unit.)

40 CFR 268.5(a)(4). PPG has stated that the thermal treatment unit to be constructed will have a capacity of 200 lbs./day (max. of 400 lbs./day) to treat all the D009 and K106 wastes generated by both the Lake Charles, Louisiana and New Martinsville, West Virginia facilities. (See the discussion under PPG, Lake Charles, Louisiana, 40 CFR 268.5(a)(4) to support its demonstration that the retort unit will have sufficient capacity to handle all the D009 and K106 wastes.)

40 CFR 268.5(a)(5). PPG has provided EPA with a detailed schedule for the construction and permitting of the retort unit to be constructed at its Lake Charles, Louisiana facility. (See the discussion under PPG, Lake Charles, Louisiana, 40 CFR 268.5(a)(5) to support its demonstration that a detailed schedule for the construction and permitting of the retort unit has been provided.)

40 CFR 268.5(a)(6). The D009 and K106 wastes generated at PPG's New Martinsville, West Virginia facility will continue to be disposed of at the CWM hazardous waste landfill in Model City, New York. CWM has provided written assurance to PPG that it will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation is sufficient to make this demonstration.

40 CFR 268.5(a)(7). PPG's New Martinsville, West Virginia will continue to use the CWM landfill, located in Model City, New York. However, until such time that EPA gives

its final approval of an extension for any facility, that facility is bound by the effective date of the land disposal restrictions applicable to its D009 and K106 wastes. CWM has provided a letter, certifying that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation is sufficient to make this demonstration.

(f) *Pioneer Chlor-Alkali Company.* Pioneer Chlor Alkali Company (Pioneer) is located in St. Gabriel, Louisiana. The St. Gabriel facility generates approximately 300 tons per year of K106 waste and up to 251 tons per year of D009 waste. The facility generates some D009 waste that Pioneer considers not amenable to thermal treatment; Pioneer has stated that it will prepare a separate request to EPA requesting a treatability variance for this waste. K106 sludge and other wastes identified as D009 are combined together in bulk containers, solidified, and disposed of at a Rollins Environmental Services hazardous waste landfill in Louisiana.

40 CFR 268.5(a)(2). Pioneer is planning to use the retort unit to be constructed at PPG's Lake Charles, Louisiana facility to treat the D009 and K106 wastes generated at its St. Gabriel, Louisiana facility. Pioneer has provided a letter from PPG to Pioneer stating that PPG is committing sufficient treatment capacity at its planned Lake Charles facility to treat Pioneer's St. Gabriel D009 and K106 wastes. Pioneer has stated that it will provide to EPA documentation that demonstrates a binding contractual commitment to use the treatment capacity that has been offered by PPG to treat to BDAT standards the D009 and K106 wastes generated at the St. Gabriel, Louisiana facility.

EPA is satisfied that Pioneer has made a substantial commitment to arrange for the treatment capacity needed to treat its D009 and K109 wastes to BDAT standards. However, EPA will not view the 40 CFR 268.5(a)(2) demonstration as having been satisfactorily met and cannot grant final approval of the case-by-case application for the D009 and K106 wastes generated at Pioneer's St. Gabriel, Louisiana facility. Any such contract must indicate that certain contingencies referred to in PPG's letter, relating to the nature of Pioneer's waste and whether the State of Louisiana objects to treatment at PPG's facility, have been resolved. In addition, the PPG letter indicates that it has sufficient capacity to treat Pioneer's waste as well as its own, and EPA accepts that representation for purposes of this proposal. However, the data available to EPA leave some uncertainty as to the adequacy of this capacity, and EPA will require more detailed information in this regard to be provided as part of, or simultaneously with, the final contract between PPG and Pioneer. When such a contract has been received and approved by EPA, it will be docketed and made available for public notice and comment. Unless this contract is submitted by April 3, 1992, EPA, upon docketing of the contract, will publish a supplemental notice and provide 15 days for comment on the contract, prior to taking final action on this application. (The deadline for comments stated above will remain effective for all aspects of this proposal other than the contract).

40 CFR 268.5(a)(4). Pioneer has stated that the PPG thermal treatment unit to be constructed at Lake Charles, Louisiana will have sufficient capacity to adequately handle all the K106 and D009 waste that is generated at its St. Gabriel, Louisiana facility. PPG has provided a letter confirming that it has sufficient capacity and will commit such capacity to Pioneer to treat the D009 and K106 wastes generated at Pioneer's St. Gabriel, Louisiana facility. EPA believes that this documentation is sufficient to make this demonstration.

40 CFR 268.5(a)(5). Since Pioneer will use PPG's planned Lake Charles, Louisiana retort unit, the schedule submitted by PPG regarding the construction and permitting of its treatment unit likewise is applicable for this demonstration. As such, EPA believes the requirements of this demonstration to have been met.

40 CFR 268.5(a)(6). Pioneer Chlor-Alkali Company's wastes will continue to be disposed of in the Rollins Louisiana hazardous waste landfill. Rollins has provided their written assurance to Pioneer that Rollins will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation satisfies the requirement of making this demonstration.

40 CFR 268.5(a)(7). Pioneer will use the Rollins landfill in Louisiana. Rollins has provided a letter, certifying that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation satisfies the requirement of making this demonstration.

(g) *Vulcan Chemicals.* Vulcan Chemicals (Vulcan) is located in Port Edwards, Wisconsin. The Port Edwards facility generates approximately 75,000 lbs per year of K106 waste, 50,000 lbs per year of low mercury D009, and 12,000 lbs of high mercury D009 waste. The facility generates some D009 waste that Vulcan considers not amenable to thermal treatment; Vulcan stated that it will prepare a separate request to EPA requesting a treatability variance for this sub-category of D009 waste. K106 sludge and other wastes identified as D009 are containerized in lined 55 gallon steel drums and shipped to the Chemical Waste Management Adams Center landfill.

40 CFR 268.5(a)(2). Vulcan has provided EPA a copy of an approved authorization for expenditure to purchase and install a retort unit at its Port Edwards, Wisconsin facility. Vulcan has stated that it will provide to EPA, on or before April 1, 1992, documentation, including purchase orders for procurement of the retort unit and contractor construction and installation services that demonstrates a binding contractual commitment to construct the treatment unit to treat to BDAT standards the D009 and K106 wastes generated at the Port Edwards, Wisconsin facility. This treatment unit will employ the technology developed as part of the Hazen Research project discussed above.

EPA is satisfied that Vulcan has made a substantial commitment to construct a treatment unit that will treat its D009 and K106 wastes to BDAT standards. Additional documentation regarding the procurement and construction of this unit is expected to be submitted by Vulcan no later than April 1, 1992. EPA will not view the 40 CFR 268.5(a)(2) demonstration as having been satisfactorily met, however, until appropriate documentation is submitted to EPA showing that a binding contractual commitment has been entered into to construct this treatment unit. When such a contract has been received and approved by EPA, it will be docketed and made available for public notice and comment. Unless this contract is submitted by April 3, 1992, EPA, upon docketing of the contract, will publish a supplemental notice and provide 15 days for comment on the contract, prior to taking final action on this application. (The deadline for comments stated above will remain effective for all aspects of this proposal other than the contract).

40 CFR 268.5(a)(4). Vulcan has stated that the retort unit to be constructed will have a capacity of approximately 1000 lbs./day and thus more than adequate capacity to treat the approximately 100,000 lb./year of K106 and D009 waste generated by its Port Edwards facility.

EPA believes that Vulcan has met the requirements of this demonstration.

40 CFR 268.5(a)(5). Vulcan has provided EPA with a detailed schedule for the construction and permitting of the retort unit to be constructed at its Port Edwards, Wisconsin facility. As indicated in the schedule, Vulcan estimates that a construction and operating air permit will be approved by August 1992 with construction of the unit completed by April of 1993. It is further estimated that a final permit approval to operate this unit will be obtained by October 1993. EPA believes that Vulcan has submitted the documentation necessary to meet this requirement.

40 CFR 268.5(a)(6). The D009 and K106 wastes will continue to be disposed of in Chemical Waste Management's (CWM) Adams Center hazardous waste landfill. CWM has provided written assurance to Vulcan that it will have the necessary capacity available to manage these wastes during the extension, if approved. EPA believes that this documentation is sufficient to make this demonstration.

40 CFR 268.5(a)(7). Vulcan will use CWM's Adams Center landfill. CWM has provided a letter, certifying that this landfill meets the requirements of 40 CFR 268.5(h)(2). A copy of this letter is included in the public docket established for this notice. EPA believes that this documentation is sufficient to make this demonstration.

B. Consultations With States

In accordance with 40 CFR 268.5(e), EPA consulted with the appropriate State agencies for the States in which the seven facilities applying for a case-by-case extension are located. In particular, EPA consulted with the States of Georgia, Kentucky, Louisiana, Tennessee, West Virginia, and Wisconsin to determine whether these States had any permitting, enforcement, or other concerns regarding the respective facilities within their boundaries that EPA should take into consideration in deciding to grant or deny these case-by-case applications. No such concerns were identified by the States.

III. EPA's Proposed Action

For the reasons discussed above, EPA believes that each of the seven chlorine manufacturing facilities has made and is continuing to make a good-faith effort towards providing sufficient and appropriate treatment capacity for the D009 and K106 wastes that are the subject of its case-by-case application. EPA believes that two of the facilities, i.e., Olin's Augusta, Georgia and Charleston, Tennessee facilities have met all the 40 CFR 268.5 demonstrations. Therefore, EPA is proposing to grant a one-year extension of the May 8, 1992 effective data of the land disposal restrictions date for D009 and K106 wastes generated at these two facilities. If the extension is granted, these wastes could continue to be managed in the manner that they are currently handled until May 8, 1993 (unless the extension is renewed for up to one additional year, in which case it would be until May 8, 1994), while the proposed treatment facilities are being constructed.

The other five facilities, i.e., BFGoodrich's facility in Calvert City, Kentucky, Pioneer's facility in St. Gabriel, Louisiana, PPG's facilities in Lake Charles, Louisiana and New Martinsville, West Virginia, and Vulcan's facility in Port Edwards, Wisconsin have met six of the required seven demonstrations in 40 CFR 268.5, but still need to execute actual contracts to construct or otherwise provide the necessary treatment capacity. To expedite processing of these applications, EPA is announcing its intent to propose (at this time) that all requirements in each of these five facilities' case-by-case applications have been met, other than the requirement of a binding contractual commitment. For these five facilities, EPA proposes to grant an extension of the effective data of the LDRs following EPA approval of documentation submitted by each of these five facilities that it has secured a binding contractual agreement to construct its retort unit or otherwise provide treatment capacity that will be capable of treating its D009 and K106 wastes to meet the established BDAT standards. As discussed above under the 40 CFR 268.5(a)(2) demonstration for each facility, EPA will ensure that 15 days are allowed for public comment on the documentation of a contractual commitment before taking final action on the relevant application. Until such time that EPA gives its final approval of an extension for any facility, that facility is bound by the effective date of the land disposal restrictions applicable to its D009 and K106 wastes.

For any application that is granted, the applicant must comply with the provisions of 40 CFR 268.5 (f) and (g), and must submit monthly progress reports addressing progress being made toward providing the necessary treatment capacity. EPA must also be notified of any change in the conditions specified in the application. The extension remains in effect unless the facility fails to make a good-faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, conditions certified in the application change, or the facility violates any law or regulations implemented by EPA.

(Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924)).

Dated: March 12, 1992.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

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